

Discussion of Selected Proposed Rule Concepts

Abbreviations

C.R.S.	Colorado Revised Statutes
C.R.Civ.P.	Colorado Rules of Civil Procedure
F.R.B.P.	Federal Rules of Bankruptcy Procedure
L.B.R.	Current Local Bankruptcy Rule or General Procedural Order
U.N.S.	Uniform Numbering System for Local Bankruptcy Rules

Topics (bold, italicized code in bottom row of each rule table)

AMG	Adversary and Motions Practice Group
G7	Chapter 7 Group
G11	Chapter 11 Group
G13	Chapter 13 Group
MIG	Miscellaneous Issues Group

November 12, 2004

Table of Contents

DISMISSAL	1
NOTICE TO INTERESTED PARTIES.....	2
NOTICE TO INTERESTED PARTIES – CERTIFICATION OF CONTESTED OR NON-CONTESTED MATTER	3
NOTICE TO INTERESTED PARTIES – TIME TO FILE OBJECTION OR CERTIFICATE IN CONTESTED MATTER	4
NOTICE TO INTERESTED PARTIES – APPLICABILITY OF RULE 7026.....	5
NOTICE TO INTERESTED PARTIES — ENFORCEMENT.....	6
NOTICE TO INTERESTED PARTIES — ELECTRONIC FILING	7
REPRESENTATION BY SUPERVISED LAW STUDENTS	8
RETENTION OF PROFESSIONAL PERSONS	9
ATTORNEY WITHDRAWAL	10
ATTORNEY WITHDRAWAL — CHAPTER 7.....	11
DISCLOSURE STATEMENTS	12
BALLOT REPORTS.....	13
CASH COLLATERAL AND ADEQUATE PROTECTION AGREEMENTS	14
FINANCING AGREEMENTS.....	15
OBJECTIONS TO DISCHARGE.....	16
DISCHARGEABILITY COMPLAINTS	16
AMENDMENTS TO SCHEDULES.....	16

MOTIONS TO SELL	17
PRETRIAL PROCEDURES	18
DISCOVERY – IN GENERAL	19
NOTICE REQUIREMENTS FOR DISMISSAL OF PROCEEDING TO DENY OR REVOKE DISCHARGE	20
DEFAULTS – FAILURES TO PROSECUTE.....	21
SUMMARY JUDGMENTS.....	22
JUDGMENTS – PAYMENT OF	23
COMPLEX PROCEEDINGS – MULTIPLE ADVERSARIES	24
PAPERS – REQUIREMENTS OF FORM	25
PRO HAC VICE.....	26
MOTIONS PRACTICE	27
MOTIONS PRACTICE — RESPONSIVE PLEADINGS.....	28
MEDIATION	29

Table of Rules

1017-2.....	1
2002-1.....	2
2002-1.....	3
2002-1.....	4
2002-1.....	5
2002-1.....	6
2002-1.....	7
2009-1.....	8
2014-1.....	9
2002-1.....	9
2091-1.....	10
2091-2.....	11
3016-1.....	12
3018-1.....	13
4001-1.....	14
4001-2.....	15
4004-2.....	16
4007-1.....	16

1009-1.....	16
6004-1.....	17
7016-1.....	18
7026-1.....	19
7041-1.....	20
7055-1.....	21
7056-1.....	22
7069-1.....	23
7088-1.....	24
9004.....	25
9010.....	26
9013-1.....	27
9013.....	28
9060-1.....	29

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
1017-2	117	Dismissal	Expedited dismissal of a chapter 7 case if the debtor fails to appear at the meeting of creditors or fails to provide required documents to the chapter 7 trustee.	<p>Debtors fail to appear at initial and continued meetings of creditors. Cost and delay to chapter 7 trustee to file motion and to provide notice to all parties in interest. Lack of meaningful information like bank statement balance as of petition date, wage statement and income tax return from which to ascertain basic information concerning case, assets and whether case is one of substantial abuse.</p> <p>Some debtors do this just to keep the stay in place, are not concerned about the need to re-file, and will fail to appear again or do it in tandem with their spouses to avoid evictions.</p> <p>Proposed F.R.B.P. 4002 addresses a debtor's duty to provide information at the meeting of creditors.</p>
<u>Proposed Solution(s)</u>				
<p>Local rule to allow for the dismissal upon certification to the court by the chapter 7 trustee that debtor has failed to attend an initial and continued meeting or has failed to provide required documents. This dismissal will bar the debtor from re-filing a case for 180 days under § 109 (g).</p> <p>Provide notice on the second page of the 341 notice that the case may be dismissed upon certification by the chapter 7 trustee that the debtor has failed to appear at the initial meeting of creditors or any continuance and that dismissal for failure to appear in prosecution will result in a 180-day prohibition for the non-appearing debtor. Amend the United States Trustee's standing motion to dismiss to incorporate these reasons as bases for dismissal.</p> <p>Provide in the 341 notice a list of all required documents that debtors must bring to the initial meeting of creditors, and include in notice a statement that the case may be dismissed for failure to provide the documents.</p>				
<i>G7</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2002-1	202	Notice to Interested Parties	Too many compliance orders about improper service	Make clear in the rules that service at the address on the current mailing matrix may not be sufficient for Rule 7004 service when required by Rule 9014.
<u>Proposed Solution(s)</u>				
Revise Rule 202 to require notice to any party listed on the court's mailing list on PACER for motions subject to Rule 2002 (a) or (b) (service on all creditors is required).				
<i>MIG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2002-1	202	Notice to Interested Parties – Certification of Contested or Non-contested Matter	Knowing whom to serve when.	<p>Revise certificates of contested and non-contested certificate forms to require identification of “parties against whom relief is sought” under Rule 9014.</p> <p>Revise rules to require more specific information in the certificate of service attached to a motion.</p> <p>Guidelines for service addresses requested.</p>
<u>Proposed Solution(s)</u>				
See comment.				
<i>MIG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2002-1	202	Notice to Interested Parties – Time to File Objection or Certificate in Contested Matter	Length of time it takes to get to a hearing on a contested motion. Issue where order is not required.	Shorten the objection time for motions that are not subject to the notice requirements of 2002 (a) or (b) (currently 14 days plus 3 days if mailed). Shorten the time for filing a certificate of contested or non-contested matter. Concern about the Rule 202.2 requirement to confer with opposing counsel.
<u>Proposed Solution(s)</u>				
See comment.				
<i>MIG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2002-1	202	Notice to Interested Parties – Applicability of Rule 7026	Uncertainty about when Rule 26 requirements of meeting, disclosure and discovery apply to contested matters.	Clarify when a matter is “contested,” and state that Rule 7026 applies to contested matters.
<u>Proposed Solution(s)</u>				
See comment.				
<i>AMG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2002-1	202	Notice to Interested Parties — Enforcement	Procedural uniformity among chambers.	Lack of uniformity in enforcement of the rules for service among the chambers.
<u>Proposed Solution(s)</u>				
To be tackled after successfully brokering lasting peace in the Middle East. ☺				
<i>AMG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2002-1	202	Notice to Interested Parties — Electronic Filing	Update notice requirements for electronic filing.	No further comment made by subgroup given requirements of federal rules.
<u>Proposed Solution(s)</u>				
None.				
<i>MIG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2009-1		Representation by Supervised Law Students	No current procedure allowing a law student to appear in a bankruptcy case when the student is providing pro bono services for legal aid or government programs. May be appropriate to limit the scope of matters in which the student can appear.	
<u>Proposed Solution(s)</u>				
Adopt provisions similar to state law (C.R.S. 12-5-116.1-116.5) to allow law student interns who have completed a minimum of 2 years of legal studies and are enrolled in an accredited law school to appear in cases if they are under the supervision of a qualified lawyer (C.R.S. 12-5-116.4). Modify C.R.S. to include federal agencies or departments and, in addition to the authorized legal services organization, to include the Faculty of Federal Advocates (?).				
<i>skip</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2014-1	214	Retention of Professional Persons	Rule 214 addresses the appointment of professional persons but does not specify what is required in particular retention situations.	<i>Nunc pro tunc</i> ; see Rule 214.
2002-1	202	Notice		When is notice under Rule 202 required of professional persons?
<u>Proposed Solution(s)</u>				
<p><i>Notice under Rule 2002-1 is required whenever a professional person:</i></p> <ol style="list-style-type: none"> a. <i>Receives any payment or retainer in connection with a bankruptcy case. The notice must state:</i> <ol style="list-style-type: none"> i. <i>The amount of any payment or retainer received and the balance remaining on the petition date;</i> ii. <i>The source of the payment or retainer; and</i> iii. <i>The need for greater disclosure when the professional's fees are contributed by a principal or insider of the debtor.</i> b. <i>Files an application for compensation. The application and notice must show sufficient facts for a party-in-interest, the trustee or the court to determine whether a conflict of interest exists. Examples of possible conflicts may include the following:</i> <ol style="list-style-type: none"> i. <i>The professional has received any payment before the bankruptcy filing that might be subject to an avoidance action (a preference or a fraudulent conveyance, for example, when an affiliate pays the professional, instead of the beneficiary of the professional's services);</i> ii. <i>The professional has rendered or is continuing to render services to creditors of the debtor on unrelated matters; or</i> iii. <i>When the professional has had or currently has a significant relationship with particular creditors of the debtor. What constitutes a "significant relationship" depends on factors like the size of the professional's firm, the character of its clientele, and the amount of fees charged to the client. The application should attempt to quantify any past or present relationship by disclosing the total amount of compensation paid by the client to allow creditors, the trustee and the court to evaluate the disinterestedness of the applicant.</i> c. <i>Represents multiple debtors.</i> d. <i>Proposed compensation arrangements.</i> e. <i>Asserts a lien in or on the debtor's property (for example, statutory liens, security interests, or deeds of trust or mortgages).</i> 				
G11				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2091-1	910(e)	Attorney Withdrawal	Rule 910 (e) addresses attorney withdrawal, but does not specify any procedures. Some chambers require compliance with the procedures of Rule 121, Section 1-1, C.R.Civ.P.	Consistent with the state rule, a proposed local rule should require counsel to file with a motion to withdraw a written certification that the state notification requirements have been met. The certification must include the manner by which notice was given to the client. The motion, notice and certification must be filed with the court and served under Rule 202 on the client and all other interested parties.

Proposed Solution(s)

Any attorney requesting to withdraw as counsel for a client must make a reasonable effort to give actual notice to the client advising the client that:

- a. Counsel wishes to withdraw;
- b. The court retains jurisdiction;
- c. The client has the burden of keeping the court informed of the mailing address where notices, pleadings or other papers may be served;
- d. The client has the obligation either to prepare personally for any hearing or trial in a contested matter or adversary proceeding or to hire substitute counsel to prepare for any future hearing or trial;
- e. If substitute counsel is not hired, the client has the obligation to decide whether to respond to any motion that may be filed in the case after the withdrawal of counsel, to file a timely response, and to respond to any court orders requiring the client to respond;
- f. If the client fails or refuses to meet these burdens, the client may suffer possible default or dismissal of the pending contested matter, adversary proceeding, or the client's bankruptcy case in some circumstances;
- g. The dates of any pending matters, including trials and hearings on contested matters or adversary proceedings, and a warning that such matters will not be affected by the withdrawal of counsel;
- h. Service of process may be made upon the client at the client's last known address; and
- i. The client has a right to object to the proposed withdrawal of counsel by filing with the court an objection to the attorney's motion to withdraw within 15 days of the notice.

Counsel must prepare a certificate stating that counsel has complied with these advisement notice requirements. The motion to withdraw, advisement notice, and certificate must be filed with the court and served on the client and all other interested parties pursuant to Rule 2002.

G7

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
2091-2		Attorney Withdrawal — Chapter 7	Need for withdrawal procedure if chapter 7 debtor will not enter into or pay according to a post-petition attorney fee arrangement for post-petition services.	There should be an accepted mechanism for chapter 7 debtor's counsel to withdraw when the debtor will not enter into an agreement to pay for post-petition services not included in the flat fee or fails to pay according the agreement.
<u>Proposed Solution(s)</u>				
Allow debtor's counsel to withdraw on motion in any chapter 7 case in which the debtor will not enter into an agreement for payment of post-petition services or will pay according to a post-petition agreement.				
<i>G7</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
3016-1		Disclosure Statements	Reduce objections to the adequacy of a disclosure statement.	
<u>Proposed Solution(s)</u>				
Provide a non-exclusive list of provisions to be included in disclosure.				
<i>G11</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
3018-1		Ballot Reports	Lack of uniformity in ballot reports leads to issues in contested confirmations.	
<u>Proposed Solution(s)</u>				
Create a form of ballot report to standardize voting results.				
<i>G11</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
4001-1		Cash Collateral and Adequate Protection Agreements	Need more uniform and efficient procedures for approval of agreements.	<p>Need for uniformity between chambers regarding process for approval.</p> <p>Achieve more efficiency between interim and final hearings.</p> <p>Avoid double noticing.</p> <p>Difficulty in reviewing lengthy orders on short notice</p>
<u>Proposed Solution(s)</u>				
<p>Motions docket to be used to set hearing on interim approval.</p> <p>Provide a non-exclusive list of provisions to be highlighted in notice to alert parties to important issues.</p> <p>Rule 2002 notice sets the hearing date.</p>				
<i>G11</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
4001-2		Financing Agreements	Need more uniform and efficient procedures for approval of agreements.	<p>Need for uniformity between chambers regarding process for approval.</p> <p>Achieve more efficiency between interim and final hearings.</p> <p>Avoid double noticing.</p> <p>Difficulty in reviewing lengthy orders on short notice</p>
<u>Proposed Solution(s)</u>				
<p>Motions docket to be used to set hearing on interim approval.</p> <p>Provide a non-exclusive list of provisions to be highlighted in notice to alert parties to important issues.</p> <p>Rule 2002 notice sets the hearing date.</p>				
<i>G11</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
4004-2	109	Objections to Discharge	Provide meaningful opportunity for creditors added within X days prior to the deadline to object to discharge or dischargeability to participate in the case without needing to file motions to extend time.	The addition of a creditor after the meeting of creditors and near the deadline to object to discharge or dischargeability allows for gamesmanship by a debtor and places an undue burden on the added creditor to meet the deadline to preserve any claims under sections 523 (c) and 727.
4007-1	109	Dischargeability Complaints		
1009-1	109	Amendments to Schedules		
<u>Proposed Solution(s)</u>				
<p>Local rule to allow for an automatic sixty day extension for any creditor added within X days prior to deadline to object to discharge or dischargeability to file a complaint without need for further motion.</p> <p>Provide in the 341 notice an admonition that notwithstanding the issuance of a discharge in those cases where creditors are added within X days prior to the deadline to object, a creditor will be allowed an additional sixty days to file a complaint from the date that the creditor was added and mailed the 341 notice, etc (109(a)(2)) and any discharge issued will only be effective as to that creditor after sixty days from the notice.</p> <p>An alternative solution to the sixty day extension proposed above is a thirty day automatic extension from the date of filing of the amendment and notice to the creditor for any creditor listed within thirty days of the discharge deadline. If the creditor needs more time, the creditor can file a motion for extension of time within that thirty day period. That should protect a late-filed creditor's interests and keep the case moving along better than an automatic sixty day extension in every case.</p>				
AMG				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
6004-1		Motions to Sell	Achieve more efficiency. Avoid double noticing.	
<u>Proposed Solution(s)</u>				
<p>Motions docket to be used to set hearing on interim approval.</p> <p>Rule 2002 notice sets the hearing date.</p>				
<i>G11</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7016-1	No current local rule	Pretrial Procedures	Lack of uniformity, consistency.	Offer consistency in the orders/requirements where possible.
<u>Proposed Solution(s)</u>				
Provide a local form of Rule 7016 order.				
<i>AMG</i>				

<u>U.N.S</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7026-1	726	Discovery – In General	Lack of uniformity, consistency.	Offer consistency in the orders/requirements where possible.
<u>Proposed Solution(s)</u>				
Provide a local form of Rule 7026 order.				
<i>AMG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7041-1	No current local rule	Notice Requirements for Dismissal of Proceeding to Deny or Revoke Discharge	Some creditors bringing a section 727 action together with a section 523 action to pressure a debtor into “buying” the discharge.	<p>Sensitize the parties to the issue early in the case.</p> <p>This could be done as a form attached to a shorter rule setting out to whom notice must be sent and that notice must be in substantial conformity with Form 7041-1.</p>
<u>Proposed Solution(s)</u>				
<p>The parties to a dismissal or settlement resulting in dismissal of an objection to discharge must mail to the United States Trustee, the chapter 7 trustee, and any parties who have entered an appearance in the underlying bankruptcy case a copy of the settlement agreement or of the agreement for dismissal and notice under Rule 2002-1 that contains the following information:</p> <ol style="list-style-type: none"> Whether there is a provision in the settlement or dismissal allowing, as a condition of the settlement or dismissal, that another party in interest has a right to intervene or be substituted as a party plaintiff, subject to a willingness to bear the costs of prosecution. The probability of success of the litigation in the merits. Any potential difficulty in collection of the judgment. The complexity and expense of litigation. The effect of settlement on creditors. The legal fees and expenses for prosecuting the discharge proceeding to date and the estimated cost to litigate the matter to conclusion. <p>A statement of the claims and counterclaims asserted in the proceeding and copies of the complaint, answer and any counterclaims and replies must be attached to the notice as exhibits.</p>				
<i>G7</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7055-1	No current local rule	Defaults – Failures To Prosecute	Lack of consistency in the required representations among chambers.	Provides the court and the parties with consistency and certainty.
<u>Proposed Solution(s)</u>				
Adopt in form Rule 121 § 1-14 of Colorado Rules of Civil Procedure.				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7056-1	Standing Order 2004-1	Summary Judgments	Supersede the standing order, consistent guidelines from the entire court, etc.	<p>Motions for summary judgment are frequently burdensome, in time and expense, for the court and the parties. Parties frequently file motions for summary judgment when an objective examination would reveal triable issues of fact or when the court might conclude that it would be more cost-effective to resolve all issues at trial, given that most trials in bankruptcy court are bench trials. This rule provides the court with opportunity to notify the parties of its observations at a pre-motion conference. The rule does not limit a party's right to file a motion for summary judgment after the pre-motion conference.</p> <p>Page limits, etc., based on the preference of the presiding judge can be discussed at the pre-motion conference.</p>
<u>Proposed Solution(s)</u> <p>(a) Unless the court orders otherwise, no party shall file a motion for summary judgment without first seeking a pre-motion conference. The request for a pre-motion conference shall be made by letter, filed on the CM/ECF system, setting forth the issues to be presented in the motion and the grounds for relief.</p> <p>(b) Unless the court orders otherwise, no party shall file a motion for summary judgment without first seeking a pre-motion conference. The request for a pre-motion conference shall be made by letter, filed on the CM/ECF system, setting forth the issues to be presented in the motion and the grounds for relief.</p> <p>(c) Upon any motion for summary judgment pursuant to Bankruptcy Rule 7056, there shall be annexed to the motion a separate, short, and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried. Failure to submit the statement shall constitute grounds for denial of the motion.</p> <p>(d) Papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party, and if necessary, additional paragraphs containing a separate, short, and concise statement of additional material facts as to which it is contended that there is a genuine issue to be tried.</p> <p>(e) Each numbered paragraph in the statement of material facts required to be served by the moving party shall be deemed admitted for purposes of the motion unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.</p> <p>(f) Each statement by the movant or opponent pursuant to subdivisions (b) or (c) of this rule, including each statement controverting any statement of material fact by a movant or opponent, shall be followed by citation to evidence which would be admissible.</p>				
<i>AMG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7069-1	No current local rule	Judgments – Payment of	Need guidance.	Provides the court and the parties with consistency and certainty.
<u>Proposed Solution(s)</u>				
Adopt in form Rule 103 of the Colorado Rules of Civil Procedure.				
<i>AMG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
7088-1	No current local rule	Complex Proceedings – Multiple Adversaries	Need for uniform treatment of issues that may be required in large batch filed adversary proceedings.	Formalize the process for consistency and certainty and for ease of administration both on the court and practitioners.
<u>Proposed Solution(s)</u>				
<p>Guidelines on how a complex proceeding is initiated (by motion, letter, other?).</p> <p>Guidelines on what constitutes or qualifies as a complex proceeding.</p> <p>Elements of a complex proceeding order.</p> <p>Assignment of adversary proceedings comprising a complex proceeding.</p>				
<i>AMG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
9004	904	Papers – Requirements of Form	Need for uniform exhibit requirements among chambers	Provides the court and the parties with consistency and certainty. In addition to providing uniformity for the bar, this rule should ensure that exhibit notebooks are clearly marked and tabbed and that multi-page exhibits are paginated to facilitate efficient use of time in court. Parties should submit exhibit notebooks to chambers 24-48 hours before the hearing so chambers' staff can inspect them and require any changes in advance of trial.
<u>Proposed Solution(s)</u>				
Contested Matters: Movants (numbers) and Respondents (letters)				
Adversary Proceedings: Plaintiff (numbers) and Defendants (letters)				
<i>skip</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
9010	910(b)	Pro Hac Vice		<p>Admission by <i>pro hac vice</i> is governed currently by Rule 910 (b). Unless the court orders otherwise, the rule requires the applicant to associate with local counsel.</p> <p>The district court has discontinued motions for admission by <i>pro hac vice</i>.</p>
<p><u>Proposed Solution(s)</u></p> <p><i>An attorney admitted to practice law and in good standing in another jurisdiction within the United States may enter an appearance <u>pro hac vice</u> in any bankruptcy case in this jurisdiction as long as the attorney:</i></p> <ul style="list-style-type: none"> <i>(a) consents to this court's exercise of disciplinary jurisdiction over any alleged misconduct,</i> <i>(b) certifies familiarity with the local rules of this court in the entry of appearance,</i> <i>(c) associates with local counsel, who shall also file an entry of appearance in the case, and</i> <i>(d) applies for admission to the United States District Court for the District of Colorado.</i> 				
<i>G11</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
9013-1	913	Motions Practice	Motions practice is cumbersome and tends to take too long to get to hearing.	<p>Double noticing often results once a hearing is set.</p> <p>Make motions practice more efficient, and issue resolution more expedient.</p> <p>Reduce or more quickly resolve marginal objections.</p>
<u>Proposed Solution(s)</u>				
<p>Weekly motions docket similar to the relief from stay docket where each chambers sets a day and time for motions to be heard.</p> <p>Rule 2002 notice sets the hearing date.</p> <p>If necessary, the scheduled hearing could be treated as a status and scheduling conference to resolve objections to the relief requested.</p>				
<i>MIG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
9013	913	Motions Practice — Responsive Pleadings	Absence of guidance on deadlines to file responsive pleadings to motions	Unless there is a representation that motion is unopposed; excludes emergency relief and motions filed/granted as a matter of course.
<u>Proposed Solution(s)</u>				
10 days to filed a responsive pleading (includes three days mailing?)				
<i>MIG</i>				

<u>U.N.S.</u>	<u>L.B.R.</u>	<u>Rule Topic</u>	<u>Issue Identified</u>	<u>Comment(s)</u>
9060-1		Mediation	No set procedure to request mediation in contested or adversary matters and no established rules regarding mediators.	
<p><u>Proposed Solution(s)</u></p> <p>A local rule accompanied by mediation agreement forms stating the procedure for referring a matter to mediation. Require that the motion be accompanied by an executed mediation agreement with disclosure about whether the parties have agreed to a mediator or have agreed that a mediator from a list maintained by the court clerk be used (or that any particular mediator on the list not be used).</p> <p>The form should explain by whom and how the fees and expenses of mediation will be paid or shared if the mediator has not agreed to resolve the dispute without a fee.</p> <p>The rule would not apply when a sitting bankruptcy judge agrees to mediate or when another type of dispute resolution is used.</p>				
<i>skip</i>				